

## REMARKS

This Amendment and Response is filed in reply to the final Office Action dated October 23, 2006. Claim 1 is amended and claims 26-27 were previously canceled. Accordingly, after entry of the Amendment and Response, claims 1-25 and 28-40 remain pending.

### I. Claim Rejections under 35 U.S.C. § 103

Claims 1-25, 28-30, 32-33, 35 and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,892,354 to Servan-Schreiber et al. (hereinafter "Servan") in view of U.S. Patent No. 6,708,203 to Makar et al. (hereinafter "Makar"). Claims 31, 34 and 36-39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Servan in view of U.S. Patent No. 6,317,789 to Rakavy et al. (hereinafter "Rakavy").

A proper prima facie obviousness rejection requires 1) a suggestion or motivation to modify the prior art reference or combine the reference teachings; 2) a reasonable expectation of success; and 3) that the combined references teach or suggest all of the claim limitations. See MPEP § 2143. Initially, the rejection of independent claims 1, 9 and 21 is addressed.

#### **A. Claims 1-25, 28-30, 32-33, 35 and 40**

Independent claim 1 is amended to include the limitation "a user profile containing user demographic information, program participation parameters including rules for disseminating the user demographic information, and a participation credit." Support for this amendment may be found in the specification at least at page 14, lines 4-5, lines 25-26 and Figure 3). It is respectfully submitted that neither Servan nor Makar disclose such a limitation. Servan and Makar do not contemplate a user profile containing program participation parameters including rules for disseminating the user demographic information and a participation credit as required by independent claim 1. Therefore, it is respectfully submitted that independent claim 1 is patentable over Servan in view of Makar and such indication is respectfully requested.

The rejection of independent claims 9 and 21 is respectfully traversed. Independent claim 9 includes the limitation "a first module configured to determine a time period available for presenting one or more messages" and independent claim 21 includes a similar limitation "estimating a first time period necessary to retrieve the content from the Internet site." Both claims require a determination or estimation of the time available for displaying an advertisement. Servan at most discloses an advertisement displayed for a default amount of

time or for a time period determined using a feedback mechanism, i.e., when the web page is ready to be displayed (see *Servan*, column 4, lines 29-31). Makar discloses display of a message triggered by an event that causes the user to wait for a process to complete (see *Makar*, Figure 1). Neither discloser either a determination or estimation of the time available to present messages or retrieve content as set out in claims 9 and 21. Therefore, it is respectfully submitted that independent claims 9 and 21 are patentable over *Servan* in view of *Makar* and such indication is respectfully requested.

The remaining rejected claims 2-8, 10-20, 22-25 and 28-30, 32-33, 35 and 40 all depend, either directly or indirectly, from one of independent claims 1, 9 and 21. Accordingly these dependent claims are themselves patentable over *Servan* in view of *Makar* and such indication is respectfully requested.

#### **B. Rejection of claims 31, 34 and 36-39**

Claims 31, 34 and 36-39 all depend, either directly or indirectly, from one of independent claims 1, 9 and 21. As discussed above, independent claims 1, 9 and 21 are patentable over *Servan*. *Rakavy* discloses downloading of advertisements during periods of low communication line utilization (see *Rakavy*, column 13, lines 19-21) and display of the advertisements when the user has not entered input for a predetermined amount of time or when the system has been idle for a predefined period of time (see *Rakavy*, col. 10, line 53 to col. 11, line 3). As such neither *Servan* nor *Rakavy* disclose all the limitations of independent claims 1, 9 and 21. It is respectfully submitted that the independent claims 1, 9 and 21 and therefore dependent claims 31, 34 and 36-39 are patentable over *Servan* in view of *Rakavy* and such indication is respectfully requested.

#### **II. Conclusion**

The Applicant thanks the Examiner for his thorough review of the application. The Applicant respectfully submits the present application, as amended, is in condition for allowance and respectfully requests the issuance of a Notice of Allowability as soon as practicable.

This Amendment is submitted contemporaneously with a petition for a two-month extension of time in accordance with 37 C.F.R § 1.136(a) and a Request for Continued Examination. Accordingly, please charge Deposit Account No. 04-1415 in the amount of \$1,240.00 (\$450.00 for a two-month extension of time fee and \$790.00 for the RCE). The Applicant believes no further fees or petitions are required. However, if any such petitions or

fees are necessary, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

If the Examiner should require any additional information or otherwise desires to discuss the present matter with Applicant's attorney, please contact the undersigned attorney at 303-629-3427.

Dated: March 23, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gregory P. Durbin", written over a horizontal line.

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